

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>CLARENCE PETERS,</b>	:	<b>CIVIL ACTION NO. 1:08-CV-1961</b>
	:	
<b>Petitioner</b>	:	
	:	<b>(Judge Conner)</b>
<b>v.</b>	:	
	:	
<b>WARDEN KLEPTRIBE, et al.</b>	:	
	:	
<b>Respondent</b>	:	

**ORDER**

AND NOW, this 3rd day of November, 2008, upon consideration of petitioner's application for habeas corpus under § 2254<sup>1</sup> (Doc. 1), and pursuant to the court's preliminary review of petitioner's application, see R. GOVERNING § 2254 CASES R.4 (requiring the court to promptly examine the application and, if "it plainly appears from the petition . . . that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition"), it appearing that petitioner's application seeks relief from a conviction imposed in August 1992, (see Doc. 1 at 4), and that petitioner's conviction became final by conclusion of direct review well in excess of one year prior to the date of his application, (see id. at 4-5), and that the

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<sup>1</sup> On October 20, 2008, petitioner filed a separate application for habeas corpus under § 2254 (Doc. 1, Peters v. Nish, Civ. No. 1:08-CV-1923), seeking relief from a conviction imposed on September 24, 1998. The court instructed petitioner that in order to proceed, he must either pay the statutorily required filing fee or file an application to proceed *in forma pauperis*. (Doc. 3, Peters v. Nish, Civ. No. 1:08-CV-1923.) Instead of complying with that directive, petitioner filed the instant application for habeas corpus, seeking to vacate an entirely different conviction. As of the date of this order, petitioner has neither paid the filing fee nor applied to proceed *in forma pauperis* in the matter filed October 20, 2008.

statute of limitations within which petitioner was entitled to challenge this conviction has now expired, see 28 U.S.C. § 2244(d)(1)(A) (describing the one-year limitations period applicable to § 2254 petitions as running from “the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review”<sup>2</sup>), it is hereby ORDERED that:

1. The application for habeas corpus under § 2254 (Doc. 1) is DENIED and petitioner’s motion is DISMISSED.
2. Petitioner is directed to comply with the administrative order of court dated October 21, 2008 (Doc. 3, Peters v. Nish, Civ. No. 1:CV-08-1923) in order to prosecute his pending application for habeas corpus in the matter captioned Peters v. Nish, Civ. No. 1:08-CV-1923.
3. The Clerk of Court is directed to CLOSE this case.

S/ Christopher C. Conner  
CHRISTOPHER C. CONNER  
United States District Judge

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<sup>2</sup> Section 2244(d)(1) also provides three additional points from which the statute of limitations may run, none of which appear applicable here. Petitioner has identified no impediment to his filing an earlier application, see § 2244(d)(1)(B), he has not identified any constitutional right newly recognized by the Supreme Court, see § 2244(d)(1)(C), nor has he identified a claim that could not have been discovered through the exercise of due diligence, see § 2244(d)(1)(D).